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April 16, 2018

CONFIDENTIAL
COMMUNICATION

VIA E-MAIL TO CELA@FEC.GOV

Federal Election Commission
Office of Complaints Examination & Legal Administration
Attn: Kathryn Ross, Paralegal
1050 First Street, N.E.
Washington, DC 20463

Re: Matters Under Review 7324 & 7332

Dear Office of Complaints Examination & Legal Administration:

On behalf of Donald J. Trump for President, Inc. and Treasurer Bradley T. Crate,
enclosed is a response to the Complaints in the above-captioned MURs.

Very truly yours,



E. Stewart Crosland

Enclosure

cc: Megan Sowards Newton

BEFORE THE FEDERAL ELECTION COMMISSION

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)) **MURs 7324/7332**
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**RESPONSE OF DONALD J. TRUMP FOR PRESIDENT, INC. AND
 BRADLEY T. CRATE, AS TREASURER, TO THE COMPLAINTS**

By and through undersigned counsel, Donald J. Trump for President, Inc. and Treasurer Bradley T. Crate (collectively, “the Committee” or “Respondents”) respond to the Complaints in the above-captioned Matters Under Review. The Complaints’ allegations concern a transaction far beyond the reach of federal campaign finance regulation, and there is no reason to believe any violation of law has occurred. The Commission should, therefore, dismiss this matter and close the file.

The Complaints, based solely on media accounts, contend that a 2016 private transaction between American Media, Inc. (“AMI”) – the publisher of, among other publications, the *National Enquirer*, *US Weekly*, and various health magazines – and Karen McDougal constituted a prohibited, unreported in-kind corporate contribution to the Committee. Although the Complaints set forth many bald assertions in this regard, their factual allegations describe only a media entity’s editorial and business decision not to publish information it received from a private arm’s-length, bargained-for exchange between two represented parties neither involving nor having any connection to the Committee. Those factual allegations do not amount to a violation of law, and the Commission should dismiss this matter. *See* First General Counsel’s Report, MUR 5467 (Michael Moore), at 5 (July 23, 2004) (“Purely speculative charges, especially when accompanied by a direct refutation, do not form the adequate basis to find reason to believe that a violation of [law] has occurred.” (quoting Statement of Reason of

Comm’rs Mason, Smith, Sandstrom & Thomas, MUR 4960 (Hillary Rodham Clinton for U.S. Senate Exploratory Committee), at 3 (Dec. 21, 2000)).

To be a contribution or expenditure, a disbursement must be made “for the purpose of influencing an[] election for Federal office.” 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52(a). The Commission has made clear that not all third party spending can be treated as a contribution just because it conceivably could help a candidate’s electoral chances. *See, e.g.*, Statement of Reasons of Comm’rs McDonald, Mason, Sandstrom, Smith & Thomas, MUR 4944 (Hillary Rodham Clinton), at 2 n.2 (Aug. 28, 2001). Rather, “a finding of reason to believe that a . . . personal transaction resulted in a contribution to [a] campaign requires specific information demonstrating a nexus between the transaction[] and the campaign.” Factual & Legal Analysis, MUR 7025 (Friends of Mike Lee), at 6 (March 23, 2016) [hereinafter “Friends of Mike Lee F&LA”].

The Complaints present no information establishing any such nexus between the Committee and the alleged transaction between AMI and Ms. McDougal. The Committee did not control AMI, a national media outlet, and the consideration AMI purportedly paid to Ms. McDougal was, according to the Complaints and public statements from AMI, in exchange for exclusive rights to her story and to feature her as a fitness personality in its publications, not to defray a campaign-related expense the Committee owed or otherwise would have had to pay. *See, e.g.*, American Media, Inc. Statement In Response To Complaint Filed By Karen McDougal (Mar. 20, 2018) [hereinafter “March 20 AMI Statement”], <https://www.prnewswire.com/news-releases/american-media-inc-statement-in-response-to-complaint-filed-by-karen-mcdougal-300617127.html>; *see also* Statement of Reasons of Comm’rs Petersen, Bauerly, Hunter, McGahn & Weintraub, MUR 6200 (Ensign), at 10 (dismissing a complaint alleging a Senator’s parents

made unlawful campaign contribution by sending nearly \$100,000 in payments to a former campaign worker because there was no evidence the payment fulfilled an obligation of the campaign). While the Complaints allege that AMI discussed Ms. McDougal's story with Michael Cohen of the Trump Organization, AMI, according to media reports quoted in the Complaints, has stated that it did so to corroborate Ms. McDougal's allegations and proved unable to do so. *See* Compl., MUR 7324, ¶ 22. To find a violation based on allegations of a news media outlet's decision not to publish an article it says it could not verify is beyond the scope of the Commission's authority.

The Complaints' allegations also must be deemed to fail on their face because they allege AMI would have entered into the transaction with Ms. McDougal irrespective of President Trump's federal candidacy. *See id.* ¶¶ 16–17 (alleging that AMI enters such transactions "routinely"). AMI, moreover, has stated that under its contract with Ms. McDougal, it has published several of her works and used her photo in their publications. *See* March 20 AMI Statement; *see also* American Media, Inc. Responds To Comments Made By Attorney Peter Stris (Mar. 21, 2018), <https://www.prnewswire.com/news-releases/american-media-inc-responds-to-comments-made-by-attorney-peter-stris-300617875.html>. Therefore, even crediting all of the allegations in the Complaints, this matter fails to state a violation and must be dismissed. *See, e.g.,* Friends of Mike Lee F&LA at 13.

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For all of the foregoing reasons, Respondents respectfully request that the Commission dismiss this matter and close the file.